

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

JOHN ROBERT DEMOS,

Petitioner,

v.

DONALD R HOLBROOK,

Respondent.

Case No. C20-0028-JLR-MAT

REPORT AND RECOMMENDATION

Bar-order litigant John Demos has filed an application to proceed *in forma pauperis* with a proposed 28 U.S.C. § 2241 habeas petition. (*See* Dkt. 1.) Although Mr. Demos purports to proceed under § 2241, he challenges his state court conviction and therefore the proper basis for his habeas relief is 28 U.S.C. § 2254. An Order of this Court provides for the return without filing of any petition by Mr. Demos that seeks an extraordinary writ pursuant to 28 U.S.C. §§ 1651, 2253 or 2254, unless accompanied by the filing fee. *See Demos v. Stanley*, MC97-0031-JLW (W.D. Wash. Mar. 13, 1997).

As Mr. Demos has submitted no filing fee, the Court recommends that, pursuant to the Court's Order of March 13, 1997, the Clerk be DIRECTED to administratively close this matter and to strike any pending motions as moot. Moreover, Mr. Demos may not proceed with a second

1 or successive habeas petition here unless and until the Ninth Circuit authorizes its filing. *See* 28
2 U.S.C. § 2244(b)(3)(A). A proposed Order is attached.

3 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
4 served upon all parties to this suit within **twenty-one (21) days** of the date on which this Report
5 and Recommendation is signed. Failure to file objections within the specified time may affect
6 your right to appeal. Objections should be noted for consideration on the District Judge's motions
7 calendar for the third Friday after they are filed. Responses to objections may be filed within
8 **fourteen (14) days** after service of objections. If no timely objections are filed, the matter will be
9 ready for consideration by the District Judge on **January 31, 2020**.

10 Dated this 8th day of January, 2020.

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13 Mary Alice Theiler
14 United States Magistrate Judge
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